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7                   UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA  
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9                   TANNER D. BARBER,

10                   Petitioner,

11                   v.

12                   JEFFREY A. UTTECHT

13                   Respondent.

14                   CASE NO. 3:19-CV-05348-RJB-JRC

15                   ORDER SUBSTITUTING  
RESPONDENT AND ORDER  
DIRECTING SERVICE AND  
RETURN, § 2254 PETITION

16                   The District Court has referred this petition for a writ of habeas corpus to United States  
Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §  
17 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

18                   Petitioner Tanner D. Barber filed a petition for writ of habeas corpus naming the State of  
Washington as respondent. Dkt. 1. The proper respondent to a habeas petition is the “person  
20 who has custody over [the petitioner].” 28 U.S.C. § 2242; see also § 2243; *Brittingham v. United*  
*States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).  
According to his petition, petitioner is currently housed at Coyote Ridge Corrections Center

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ORDER SUBSTITUTING RESPONDENT  
AND ORDER DIRECTING SERVICE AND  
RETURN, § 2254 PETITION - 1

1 ("CRCC"). The Superintendent of CRCC is Jeffrey A. Uttecht. Accordingly, the Clerk of Court  
2 is directed to substitute Jeffrey A. Uttecht as the respondent in this action.

3 Further, petitioner is subject to the Court's Mandatory Electronic E-Filing Pilot Project  
4 pursuant to General Order 06-16. The Court, having reviewed petitioner's federal habeas  
5 petition, hereby finds and **ORDERS** as follows

6 (1) The Clerk shall arrange for service by e-mail upon respondent and upon the  
7 Attorney General of the State of Washington, of copies of the petition, of all documents in  
8 support thereof, and of this Order. The Clerk shall also direct a copy of this Order and of the  
9 Court's *pro se* instruction sheet to petitioner.

10 (2) Within **forty-five (45) days** after such service, respondent(s) shall file and serve an  
11 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States  
12 District Courts. As part of such answer, respondent(s) shall state whether petitioner has  
13 exhausted available state remedies and whether an evidentiary hearing is necessary.  
14 Respondent(s) shall not file a dispositive motion in place of an answer without first showing  
15 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of  
16 the Court and serve a copy of the answer on petitioner.

17 (3) The answer will be treated in accordance with LCR 7. Accordingly, on the face  
18 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.  
19 Petitioner may file and serve a response not later than the Monday immediately preceding the  
20 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply  
21 not later than the Friday designated for consideration of the matter.

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1                   (4)     Filing by Parties, Generally

2                 All attorneys admitted to practice before this Court are required to file documents  
3 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.  
4 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom  
5 the document is directed.

6                 Any document filed with the Court must be accompanied by proof that it has been served  
7 upon all parties that have entered a notice of appearance in the underlying matter. Petitioner  
8 shall indicate the date the document is submitted for e-filing as the date of service.

9                   (5)     Motions

10                Any request for court action shall be set forth in a motion, properly filed and served.  
11 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
12 part of the motion itself and not in a separate document. The motion shall include in its caption  
13 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
14 consideration on the Court's motion calendar.

15                (6)     Direct Communications with District Judge or Magistrate Judge

16                No direct communication is to take place with the District Judge or Magistrate Judge with  
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1 regard to this case. All relevant information and papers are to be directed to the Clerk.

2 Dated this 2<sup>nd</sup> day of May, 2019.

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6 J. Richard Creatura  
7 United States Magistrate Judge  
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